

OPINION NO. 83-091**Syllabus:**

R.C. 731.02 prohibits a member of city council from holding the position of member of a board of education of a city school district.

To: Michael Ward, Athens County Prosecuting Attorney, Athens, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, December 20, 1983

I have before me your request for my opinion on whether the positions of member of a board of education for a township-city school district and member of city council for a city within the geographical limits of the board of education are compatible. In a conversation with a member of my staff, you indicated that the board of education in question is in fact a city school board which serves a district

composed of the territory within the corporate limits of the city and the territory within a township which has been attached to the city for school purposes. See R.C. 3311.02.

1979 Op. Att'y Gen. No. 79-111 sets forth the seven issues which must be analyzed in determining whether two public positions are compatible. One issue which must be determined is whether the empowering statutes of either position limit permissible outside employment. R.C. 731.02 sets forth the qualifications for members of a city legislative authority, and reads in part:

Members of the legislative authority at large shall have resided in their respective cities, and members from wards shall have resided in their respective wards, for at least one year next preceding their election. Each member of the legislative authority shall be an elector of the city, shall not hold any other public office, except that of notary public or member of the state militia, and shall not be interested in any contract with the city, and no such member may hold employment with said city. A member who ceases to possess any of such qualifications, or removes from his ward, if elected from a ward, or from the city, if elected from the city at large, shall forthwith forfeit his office. (Emphasis added.)

A member of a school board is a public officer. Schwing v. McClure, 120 Ohio St. 335, 166 N.E. 230 (1929). See R.C. 3313.02 (election of city school board members); R.C. 3313.08 (time of elections); R.C. 3313.09 (term of office); R.C. 3313.10 (oath of office); R.C. 3313.12 (compensation). See also 2,867 Signers of Petition for Removal of Mack, 66 Ohio App. 2d 79, 419 N.E.2d 1108 (Medina County 1979). Thus, R.C. 731.02 prohibits a member of city council from being a member of the board of education of a city school district. See State ex rel. Monnett v. McMillan, 15 Ohio C.C. 163 (Clark County 1897).

In conclusion, it is my opinion, and you are advised, that R.C.731.02 prohibits a member of city council from holding the position of member of a board of education of a city school district.

¹ You have informed me that there is no city ordinance or charter provision varying the terms of R.C. 731.02.